



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 1, 1996

Ms. Inez VanderBurg  
Attorney, Legal Services  
Texas Department of Mental Health  
and Mental Retardation  
P.O. Box 12668  
Austin, Texas 78711-2668

OR96-0468

Dear Ms. VanderBurg:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 38892.

The Lufkin State School (the "school") received an open records request<sup>1</sup> from a state employee union representative for all records pertaining to "the alleged client abuse charges" brought against a named school employee. You inform this office that at the time the school received the open records request the only responsive document held by the school was a "Lufkin State School Unusual Incident Report." Consequently, this is the only document coming within the ambit of the open records request that we need rule upon. See Open Records Decision No. 452 (1986) (governmental body need not treat open records request as embracing information prepared *after* request was made).

You contend that the incident report is deemed confidential under chapter 595 of the Health and Safety Code. Section 595.001 of the Health and Safety Code provides:

Records of the identity, diagnosis, evaluation, or treatment of a  
person that are maintained in connection with the performance of a

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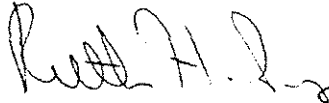
<sup>1</sup>Because the requestor specifically seeks the information at issue pursuant to the Open Records Act, we do not address whether or under what circumstances he would be entitled to these records under rules for complaint or grievance procedures promulgated by the Texas Department of Mental Health and Mental Retardation.

program or activity relating to mental retardation are confidential and may be disclosed only for the purposes and under the circumstances authorized under Sections 595.003 and 595.004.

Section 595.001 clearly makes the incident report confidential. Moreover, sections 595.003, which specifies the individuals who may consent to the release of client information, and 595.004, which provides a qualified right of a client to his or her own information, do not appear to apply here. We therefore conclude that in this instance the school must withhold the requested incident report pursuant to section 552.101 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/RWP/cbh

Ref.: ID# 38892

Enclosures: Submitted documents

cc: Mr. Doug Woodson

